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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,378	03/30/2004	Douglas Phillips	1192-012/ddh	5498
21034	7590	12/16/2005	EXAMINER	
IPSOLON LLP 805 SW BROADWAY, #2740 PORTLAND, OR 97205			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,378

Applicant(s)

PHILLIPS, DOUGLAS

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is an office action for serial number 10/814,378.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts 2004/0035992 in view of Kensey et al. (Kensey) 5,021,059. Watts teaches a visible displacement indicia (stepped gripping means on the edge of the cam members (5) in contact with crack). The stepped gripping members are capable of correlating the quality of cam placement in a rock. The visual indicia (paragraph 0071) can be observed from the side surface of the cam (310 or 700). Furthermore, the more relative movement between the cams the less cross-sectional area of the cams is seen and the less color is therefore seen. The intersecting markings in the middle of the cams indicates the quality of grip. Watts discloses all of the limitations of the claimed invention except for the indicia indicating when cam

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placement is not safe. Kensey clearly teaches that it is known to provide a color coded system for placement indicating that it is not safe to proceed (see column 8, lines 31 and column 10, lines 16) including degrees of severity being green and red indicia). Color-coding as supported by Kensey is well known in the art to indicate degrees of danger for example "green, yellow, and red zones" are known to indicate various degrees of danger. Red is known for stop or a high degree of danger, yellow is known for caution or a moderate degree of danger, and green is known for safety, highest degree of safety, or lowest degree of danger (for example stop lights and water safety). It would have been obvious to one having ordinary skill in the art to have modified Watts to have used the well known color coded zones of green, yellow (as well known, see Shivers 5,067,667), and red indicia as taught by Kensey along the stepped gripping means on the edge of each cam for the purpose of indicating the degree of safety of the device when placed in the cracked surface.

Claims 1 and 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jardine 4,184,957 in view of Kensey 5,021,059. Jardine teaches a visible placement indicia (stepped gripping means on the edge of the cam members (5) in contact with crack). The stepped gripping members are capable of

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correlating the quality of cam placement in a rock. The visual indicia can be observed from the side surface of the cam (5) as shown in figure 4. Furthermore, the more relative movement between the cams the less cross-sectional area of the cams is seen and the less color is therefore seen. Regarding claim 5, the intersecting markings in the middle of the cams indicates the quality of grip. Jardine discloses all of the limitations of the claimed invention except for the color coded zones/markings. Kensey clearly teaches that it is known to provide a color coded system for placement indicating that it is not safe to proceed (see column 8, lines 31 and column 10, lines 16) including degrees of severity being green and red indicia). Color-coding as supported by Kensey is well known in the art to indicate degrees of danger for example "green, yellow, and red zones" are known to indicate various degrees of danger. Red is known for stop or a high degree of danger, yellow is known for caution or a moderate degree of danger, and green is known for safety, highest degree of safety, or lowest degree of danger (for example stop lights and water safety). It would have been obvious to one having ordinary skill in the art to have modified Jardine to have used the well known color coded zones/markings of green, yellow (as well known in the art, see Shivers 5,067,667) and red indicia as taught by Kensey along the

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stepped gripping means on the edge of each cam for the purpose of indicating the degree of safety of the device when placed in the cracked surface.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


The prior art discloses conventional methods of indicating safety warning using color coding and indicia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kimberly T. Wood
Primary Examiner
Art Unit 3632

December 11, 2005